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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,321	06/27/2001	Sergey N. Razumov	59036-022	3651

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Washington, DC 20005-3096

EXAMINER
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JAKETIC, BRYAN J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/891,321

Applicant(s)

RAZUMOV, SERGEY N

Examiner

Bryan Jaketic

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-5, 7-14, 16-20, 22, and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose in view of Bailey Jr. et al. Rose teaches a system for selling goods, comprising an electronic device configured to enable a customer to access a group of items pre-selected for the user based on an evaluation (see col. 8, line 58 through col. 10, line 6). Rose does not teach that a human model having similar individual characteristics as the customer tries on the goods. Bailey Jr. et al disclose an online shopping system wherein human models with physical characteristics similar to the user try on clothing (see the last paragraph of p. 6 and the first paragraph of page 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Bailey Jr. et al with the invention of Rose to use a human model to try on the pre-selected items to ensure that the items are appropriate for the customer's body type.

Rose does not teach that a model or an expert makes the evaluation. However, it is common in the art for evaluations to be made by experts or the person trying on clothes. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a model or an expert to make the evaluation, because such individual's would be qualified to make a correct evaluation.

Art Unit: 3627

Rose teaches the step of enabling a customer to pick up the desired ordered item at a designated retail facility (see col. 8, lines 32-38). Rose also teaches that the ordered clothes at the facility may be "ready for try-on" (see col. 8, lines 44-47). Rose does not teach the step of automatically assigning a fitting room, but it is common in the art to assign a fitting room. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of automatically assigning a fitting room when the customer is identified to facilitate the customer's trying on the clothing.

Rose does not teach that the retail facility sells food products. However, it is common in the art for retail facilities to sell both food products and clothing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a retail facility that sells clothing and food products to allow customers to purchase multiple types of goods at one location.

Rose does not teach that warehouses supply the retail facilities. However, it is common in the art for warehouses to supply retail facilities, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ warehouses with the invention of Rose et al, because warehouses provide efficient storage.

Rose does not teach that the classification takes eye color into account. However, it is common in the art to recommend clothing based on a customer's eye color, and it would have been obvious to one of ordinary skill in the art at the time the

Art Unit: 3627

invention was made to employ the step of taking eye color into account for classification to select clothing that would complement a customer's eyes.

3. Claims 8, 15, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose and Bailey Jr. et al as applied to claims 1, 14, and 20 above, and further in view of Weaver. Neither Rose nor Bailey Jr. et al teach the step of allowing the customer to view the model in motion. Weaver teaches a shopping system that allows customers to view models in motion while wearing pre-selected clothing items (see Figures 7, 8, 9A, and 9B). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Weaver with the combination of Rose and Bailey Jr. et al to allow customers to get a better idea of how clothes will fit.

Neither Rose nor Bailey Jr. et al teach that a customer's hair color or skin tone are taken into account. Weaver teaches that hair color (17) and skin tone (15) are both taken into account in making recommendations. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Weaver with the combination of Rose and Bailey Jr. et al to take into account hair color and skin tone to recommend items of clothing that best complement a customer.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Jaketic whose telephone number is (703) 308-0134. The examiner can normally be reached on Monday through Friday (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703)308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bj

A handwritten signature in black ink, appearing to be "J. Smith", written over a horizontal line.